

Senate Study Bill 1135 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act establishing a property tax credit for commercial,
2 industrial, and railway property, providing penalties,
3 making appropriations, and including implementation and
4 applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 331.512, Code 2013, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. Carry out duties relating to the
4 business property tax credit as provided in chapter 426C.

5 Sec. 2. Section 331.559, Code 2013, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 14A. Carry out duties relating to the
8 business property tax credit as provided in chapter 426C.

9 Sec. 3. NEW SECTION. **426C.1 Definitions.**

10 For the purposes of this chapter, unless the context
11 otherwise requires:

12 1. "*Contiguous parcels*" means any of the following:

13 a. Parcels that share a common boundary.

14 b. Parcels within the same building or structure regardless
15 of whether the parcels share a common boundary.

16 c. Permanent improvements to the land that are situated
17 on one or more parcels of land that are assessed and taxed
18 separately from the permanent improvements if the parcels of
19 land upon which the permanent improvements are situated share
20 a common boundary.

21 2. "*Department*" means the department of revenue.

22 3. "*Fund*" means the business property tax credit fund
23 created in section 426C.2.

24 4. "*Parcel*" means as defined in section 445.1.

25 5. "*Property unit*" means contiguous parcels all of which
26 are located within the same county, with the same property tax
27 classification, are owned by the same person, and are operated
28 by that person for a common use and purpose.

29 Sec. 4. NEW SECTION. **426C.2 Business property tax credit**
30 **fund — appropriation.**

31 1. A business property tax credit fund is created in the
32 state treasury under the authority of the department. For the
33 fiscal year beginning July 1, 2014, there is appropriated from
34 the general fund of the state to the department to be credited
35 to the fund, the sum of fifty million dollars to be used for

1 business property tax credits authorized in this chapter.
2 For the fiscal year beginning July 1, 2015, and each fiscal
3 year thereafter, there is appropriated from the general fund
4 of the state to the department to be credited to the fund an
5 amount equal to the total amount appropriated by the general
6 assembly to the fund, as calculated in this subsection, in the
7 previous fiscal year. In addition, the sum of fifty million
8 dollars shall be added to the appropriation in each fiscal year
9 beginning on or after July 1, 2015, if the revenue estimating
10 conference certifies during its final meeting of the calendar
11 year ending prior to the beginning of the fiscal year that
12 the total amount of general fund revenues collected during
13 the fiscal year ending during such calendar year was at least
14 one hundred four percent of the total amount of general fund
15 revenues collected during the previous fiscal year. However,
16 the total appropriation to the fund shall not exceed two
17 hundred fifty million dollars for any one fiscal year.

18 2. Notwithstanding section 12C.7, subsection 2, interest or
19 earnings on moneys deposited in the fund shall be credited to
20 the fund. Moneys in the fund are not subject to the provisions
21 of section 8.33 and shall not be transferred, used, obligated,
22 appropriated, or otherwise encumbered except as provided in
23 this chapter.

24 Sec. 5. NEW SECTION. 426C.3 Claims for credit.

25 1. Each person who wishes to claim the credit allowed
26 under this chapter shall obtain the appropriate forms from the
27 assessor and file the claim with the assessor. The director
28 of revenue shall prescribe suitable forms and instructions for
29 such claims, and make such forms and instructions available to
30 the assessors.

31 2. a. Claims for the business property tax credit shall be
32 filed not later than March 15 preceding the fiscal year during
33 which the taxes for which the credit is claimed are due and
34 payable.

35 b. A claim for credit filed after the deadline for filing

1 claims shall be considered as a claim for the following year.

2 3. Upon the filing of a claim and allowance of the credit,
3 the credit shall be allowed on the parcel or property unit for
4 successive years without further filing as long as the parcel
5 or property unit satisfies the requirements for the credit. If
6 the parcel or property unit ceases to qualify for the credit
7 under this chapter, the owner shall provide written notice
8 to the assessor by the date for filing claims specified in
9 subsection 2 following the date on which the parcel or property
10 unit ceases to qualify for the credit.

11 4. The assessor shall remit the claims for credit to the
12 county auditor with the assessor's recommendation for allowance
13 or disallowance. If the assessor recommends disallowance
14 of a claim, the assessor shall submit the reasons for the
15 recommendation, in writing, to the county auditor. The county
16 auditor shall forward the claims and recommendations to the
17 board of supervisors. The board shall allow or disallow the
18 claims.

19 5. For each claim and allowance of a credit for a property
20 unit, the county auditor shall calculate the average of all
21 consolidated levy rates applicable to the several parcels
22 within the property unit. All claims for credit which have
23 been allowed by the board of supervisors, the actual value of
24 such parcels and property units applicable to the fiscal year
25 for which the credit is claimed that are subject to assessment
26 and taxation prior to imposition of any applicable assessment
27 limitation, the consolidated levy rates for such parcels and
28 the average consolidated levy rates for such property units
29 applicable to the fiscal year for which the credit is claimed,
30 and the taxing districts in which the parcel or property unit
31 is located, shall be certified on or before June 30, in each
32 year, by the county auditor to the department.

33 6. The assessor shall maintain a permanent file of current
34 business property tax credits. The assessor shall file a
35 notice of transfer of property for which a credit has been

1 allowed when notice is received from the office of the county
2 recorder, from the person who sold or transferred the property,
3 or from the personal representative of a deceased property
4 owner. The county recorder shall give notice to the assessor
5 of each transfer of title filed in the recorder's office. The
6 notice from the county recorder shall describe the property
7 transferred, the name of the person transferring title to the
8 property, and the name of the person to whom title to the
9 property has been transferred.

10 7. When all or a portion of a parcel or property unit that
11 is allowed a credit under this chapter is sold, transferred,
12 or ownership otherwise changes, the buyer, transferee, or
13 new owner who wishes to receive the credit shall refile the
14 claim for credit. In addition, when a portion of a parcel or
15 property unit that is allowed a credit under this chapter is
16 sold, transferred, or ownership otherwise changes, the owner of
17 the portion of the parcel or property unit for which ownership
18 did not change shall refile the claim for credit.

19 Sec. 6. NEW SECTION. 426C.4 Eligibility and amount of
20 credit.

21 1. Each parcel classified and taxed as commercial property,
22 industrial property, or railway property under chapter 434 is
23 eligible for a credit under this chapter. A person may claim
24 and receive one credit under this chapter for each eligible
25 parcel unless the parcel is part of a property unit for which a
26 credit is claimed. A person may claim and receive one credit
27 under this chapter for each property unit. A credit approved
28 for a property unit shall be allocated to the several parcels
29 within the property unit in the proportion that each parcel's
30 total amount of property taxes due and payable bears to the
31 total amount of property taxes due and payable on the property
32 unit. Only property units comprised of property assessed as
33 commercial property, industrial property, or railway property
34 under chapter 434 are eligible for a credit under this chapter.
35 However, property that is rented or leased to low-income

1 individuals and families as authorized by section 42 of the
2 Internal Revenue Code, as amended, and that is subject to
3 assessment procedures relating to section 42 property under
4 section 441.21, subsection 2, for the applicable assessment
5 year, shall not be eligible to receive a credit under this
6 chapter or be part of a property unit that receives a credit
7 under this chapter.

8 2. Using the actual value of each parcel or property unit
9 and the consolidated levy rate for each parcel or the average
10 consolidated levy rate for each property unit, as certified
11 by the county auditor to the department under section 426C.3,
12 subsection 5, the department shall calculate, for each fiscal
13 year, an initial amount of actual value for use in determining
14 the amount of the credit for each such parcel or property
15 unit so as to provide the maximum possible credit according
16 to the credit formula and limitations under subsection 3,
17 and to provide a total dollar amount of credits against the
18 taxes due and payable in the fiscal year equal to ninety-eight
19 percent of the moneys in the fund following the deposit of the
20 appropriation for the fiscal year and including interest or
21 earnings credited to the fund.

22 3. *a.* The amount of the credit for each parcel or property
23 unit for which a claim for credit under this chapter has been
24 approved shall be calculated under paragraph "b" using the
25 lesser of the initial amount of actual value determined by the
26 department under subsection 2, and the amount of actual value
27 of the parcel or property unit certified by the county auditor
28 under section 426C.3, subsection 5.

29 *b.* The amount of the credit for each parcel or property
30 unit for which a claim for credit under this chapter has been
31 approved shall be equal to the product of the amount of actual
32 value determined under paragraph "a" times the difference,
33 stated as a percentage, between the assessment limitation
34 percentage applicable to the parcel or property unit under
35 section 441.21, subsection 5, and the assessment limitation

1 percentage applicable to residential property under section
2 441.21, subsection 4, divided by one thousand dollars, and
3 then multiplied by the consolidated levy rate or average
4 consolidated levy rate per one thousand dollars of taxable
5 value applicable to the parcel or property unit for the fiscal
6 year for which the credit is claimed as certified by the county
7 auditor under section 426C.3, subsection 5.

8 **Sec. 7. NEW SECTION. 426C.5 Payment to counties.**

9 1. Annually the department shall certify to the county
10 auditor of each county the amounts of the business property
11 tax credits allowed in the county. Each county auditor shall
12 then enter the credits against the tax levied on each eligible
13 parcel or property unit in the county, designating on the tax
14 lists the credit as being paid from the fund. Each taxing
15 district shall receive its share of the business property tax
16 credit allowed on each eligible parcel or property unit in
17 such taxing district in the proportion that the levy made by
18 such taxing district upon the parcel or property unit bears
19 to the total levy upon the parcel or property unit by all
20 taxing districts. However, the several taxing districts shall
21 not draw the moneys so credited until after the semiannual
22 allocations have been received by the county treasurer, as
23 provided in this section. Each county treasurer shall show on
24 each taxpayer receipt the amount of credit received from the
25 fund.

26 2. The director of revenue shall authorize the department of
27 administrative services to draw warrants on the fund payable to
28 the county treasurers of the several counties of the state in
29 the amounts certified by the department.

30 3. The amount due each county shall be paid in two payments
31 on November 15 and March 15 of each fiscal year, drawn upon
32 warrants payable to the respective county treasurers. The two
33 payments shall be as nearly equal as possible.

34 **Sec. 8. NEW SECTION. 426C.6 Appeals.**

35 1. If the board of supervisors disallows a claim for credit

1 under section 426C.3, subsection 4, the board of supervisors
2 shall send written notice, by mail, to the claimant at the
3 claimant's last known address. The notice shall state the
4 reasons for disallowing the claim for the credit. The board
5 of supervisors is not required to send notice that a claim for
6 credit is disallowed if the claimant voluntarily withdraws
7 the claim. Any person whose claim is disallowed under the
8 provisions of this chapter may appeal from the action of the
9 board of supervisors to the district court of the county in
10 which the parcel or property unit is located by giving written
11 notice of such appeal to the county auditor within twenty days
12 from the date of mailing of notice of such action by the board
13 of supervisors.

14 2. If a claim for credit is disallowed by the board of
15 supervisors, and such action is subsequently reversed on
16 appeal, the credit shall be allowed on the applicable parcel or
17 property unit, and the director of revenue, the county auditor,
18 and the county treasurer shall provide the credit and change
19 their books and records accordingly. In the event the claimant
20 has paid one or both of the installments of the tax payable
21 in the year or years in question, remittance shall be made to
22 the claimant of the amount of such credit. The amount of such
23 credit awarded on appeal shall be allocated and paid from the
24 balance remaining in the fund.

25 Sec. 9. NEW SECTION. 426C.7 Audit — recalculation or
26 denial.

27 1. If on the audit of a credit provided under this chapter,
28 the director of revenue determines the amount of the credit
29 to have been incorrectly calculated or that the credit is
30 not allowable, the director shall recalculate the credit and
31 notify the claimant and the county auditor of the recalculation
32 or denial and the reasons for it. The director shall not
33 adjust a credit after three years from October 31 of the year
34 in which the claim for the credit was filed. If the credit
35 has been paid, the director shall give notification to the

1 claimant, the county treasurer, and the applicable assessor
2 of the recalculation or denial of the credit and the county
3 treasurer shall proceed to collect the tax owed in the same
4 manner as other property taxes due and payable are collected,
5 if the parcel or property unit for which the credit was allowed
6 is still owned by the claimant. If the parcel or property unit
7 for which the credit was allowed is not owned by the claimant,
8 the amount may be recovered from the claimant by assessment in
9 the same manner that income taxes are assessed under sections
10 422.26 and 422.30. The amount of such erroneous credit, when
11 collected, shall be deposited in the fund.

12 2. The claimant or board of supervisors may appeal any
13 decision of the director of revenue to the state board of tax
14 review pursuant to section 421.1, subsection 5. The claimant,
15 the board of supervisors, or the director of revenue may seek
16 judicial review of the action of the state board of tax review
17 in accordance with chapter 17A.

18 Sec. 10. NEW SECTION. **426C.8 False claim — penalty.**

19 A person who makes a false claim for the purpose of obtaining
20 a credit provided for in this chapter or who knowingly receives
21 the credit without being legally entitled to it is guilty of a
22 fraudulent practice. The claim for a credit of such a person
23 shall be disallowed and if the credit has been paid the amount
24 shall be recovered in the manner provided in section 426C.7.
25 In such cases, the director of revenue shall send a notice of
26 disallowance of the credit.

27 Sec. 11. NEW SECTION. **426C.9 Rules.**

28 The director of revenue shall prescribe forms, instructions,
29 and rules as necessary, pursuant to chapter 17A, to carry out
30 and effectuate the purposes of this chapter.

31 Sec. 12. IMPLEMENTATION. Notwithstanding the deadline
32 for filing claims established in section 426C.3, for a credit
33 against property taxes due and payable during the fiscal year
34 beginning July 1, 2014, the claim for the credit shall be filed
35 not later than January 15, 2014.

S.F. _____

1 Sec. 13. APPLICABILITY. This Act applies to property taxes
2 due and payable in fiscal years beginning on or after July 1,
3 2014.

EXPLANATION

5 This bill creates a business property tax credit under new
6 Code chapter 426C for property taxes due and payable in fiscal
7 years beginning on or after July 1, 2014.

8 The bill establishes a business property tax credit
9 fund. For the fiscal year beginning July 1, 2014, the
10 bill appropriates from the general fund of the state to the
11 department of revenue for deposit in the fund, \$50 million.
12 For the fiscal year beginning July 1, 2015, and each fiscal
13 year thereafter, the bill appropriates from the general fund
14 of the state to the department of revenue for deposit in the
15 fund an amount equal to the total amount appropriated by the
16 general assembly to the fund in the previous fiscal year. In
17 addition, for fiscal years beginning on or after July 1, 2015,
18 the bill appropriates an additional \$50 million to the fund
19 if the revenue estimating conference certifies that the total
20 amount of general fund revenues has grown by at least 4 percent
21 as compared to the previous fiscal year. The bill provides,
22 however, that the total appropriation to the fund shall not
23 exceed \$250 million in any one fiscal year. Under the bill,
24 interest or earnings on moneys deposited in the fund are
25 credited to the fund, moneys in the fund are not subject to the
26 provisions of Code section 8.33, and moneys in the fund shall
27 not be transferred, used, obligated, appropriated, or otherwise
28 encumbered except as provided in new Code chapter 426C.

29 The bill provides that each person who wishes to claim a
30 business property tax credit shall obtain the appropriate
31 forms from the assessor and file the claim with the assessor.
32 The director of revenue is required to prescribe suitable
33 forms and instructions for such claims, and make such forms
34 and instructions available to the assessors. The assessor
35 is required to remit the claims for credit to the county

1 auditor with the assessor's recommendation for allowance
2 or disallowance. If the assessor recommends disallowance
3 of a claim, the assessor shall submit the reasons for the
4 recommendation, in writing, to the county auditor. The county
5 auditor then forwards the claims to the board of supervisors.
6 The board is required to allow or disallow the claims. If
7 the board of supervisors disallows a claim for a credit, the
8 board of supervisors is required to send written notice, by
9 mail, to the claimant and the notice must state the reasons
10 for disallowing the claim for the credit. Any person whose
11 claim for credit is disallowed may appeal from the action of
12 the board of supervisors to the district court of the county in
13 which the parcel or property unit is located.

14 Claims for the business property tax credit must be filed
15 not later than March 15 preceding the fiscal year during which
16 the property taxes for which the credit is claimed are due
17 and payable. However, the deadline for filing claims against
18 property taxes due and payable in the fiscal year beginning
19 July 1, 2014, is January 15, 2014.

20 Upon the filing of a claim and allowance of a business
21 property tax credit, the credit is allowed on the parcel or
22 property unit for successive years without further filing as
23 long as the parcel or property unit satisfies the requirements
24 for the credit. The owner is required to provide written
25 notice to the assessor when the parcel or property unit ceases
26 to qualify for the credit. The bill requires the assessor to
27 maintain a permanent file of current credits and also specifies
28 certain requirements for parcel or property unit owners,
29 assessors, and county recorders when all or a portion of such
30 parcels or property units are sold, transferred, or ownership
31 otherwise changes.

32 Under the bill, each parcel classified and taxed as
33 commercial property, industrial property, or railway property
34 under Code chapter 434, is eligible for a business property
35 tax credit. A person may claim and receive one credit for

1 each eligible parcel unless the parcel is part of a property
2 unit. The bill defines "property unit" to mean contiguous
3 parcels located within the same county, with the same property
4 tax classification, owned by the same person, and operated by
5 that person for a common use and purpose. A person may only
6 claim and receive one tax credit for each property unit. A
7 credit approved for a property unit is allocated to the several
8 parcels within the property unit in the proportion that each
9 parcel's property tax liability bears to the total property
10 tax liability for the property unit. Only those property
11 units comprised of commercial property, industrial property,
12 or railway property under Code chapter 434 are eligible for a
13 credit.

14 The bill provides that property that is rented or leased to
15 low-income individuals and families as authorized by section 42
16 of the Internal Revenue Code, and that is subject to section
17 42 assessment procedures for the applicable assessment year is
18 not eligible for a business property tax credit under new Code
19 chapter 426C.

20 The bill provides that all claims for credit which have
21 been allowed, the actual value of the applicable parcels and
22 property units that are subject to assessment and taxation,
23 the consolidated levy rates or average consolidated levy rates
24 for such parcels and property units applicable to the fiscal
25 year for which the credit is claimed, and the taxing districts
26 in which each parcel or property unit is located, shall be
27 certified on or before June 30, in each year, by the county
28 auditor to the department of revenue.

29 The bill provides that using the actual value of each parcel
30 or property unit and the consolidated levy rate for each parcel
31 or average consolidated levy rate for each property unit, as
32 certified by the county auditor, the department is required to
33 calculate, for each fiscal year, an initial amount of actual
34 value for use in determining the amount of the credit for each
35 approved parcel or property unit so as to provide the maximum

1 possible credit according to the credit formula and limitations
2 in the bill, and to provide a total dollar amount of credits
3 in the fiscal year equal to 98 percent of the moneys in the
4 business property tax credit fund following the deposit of the
5 appropriation for the fiscal year and moneys credited to the
6 fund.

7 The credit for each parcel or property unit for which a
8 claim for a business property tax credit has been approved is
9 calculated using the lesser of the initial amount of actual
10 value determined by the department for the fiscal year and
11 the actual value of the parcel or property unit as certified
12 to the department of revenue. The amount of the credit for
13 each parcel or property unit is the product of the lesser
14 amount of actual value, so determined, times the difference
15 between the assessment limitation percentage applicable to
16 the parcel or property unit under Code section 441.21(5)
17 (commercial, industrial, and railway property tax rollback) and
18 the assessment limitation percentage applicable to residential
19 property under Code section 441.21(4), divided by \$1,000,
20 and then multiplied by the consolidated levy rate or average
21 consolidated levy rate per \$1,000 of taxable value applicable
22 to the parcel or property unit for the fiscal year for which
23 the credit is claimed.

24 The bill specifies the procedures for the payment of the
25 amount of the business property tax credits to the county
26 treasurers and the resulting apportionment to the applicable
27 taxing districts. The bill also specifies the requirements and
28 procedures for an appeal if a claim for credit is disallowed,
29 specifies the requirements and procedures for an audit of
30 a business property tax credit, and specifies requirements
31 relating to the collection of property taxes due as the result
32 of an incorrectly calculated or improperly approved credit.

33 The bill provides that a person who makes a false claim for
34 the purpose of obtaining a business property tax credit or who
35 knowingly receives the credit without being legally entitled

1 to it is guilty of a fraudulent practice and is subject to a
2 criminal penalty.

3 The bill requires the director of revenue to prescribe
4 forms, instructions, and rules as necessary, pursuant to Code
5 chapter 17A, to carry out and effectuate the purposes of new
6 Code chapter 426C.

7 The bill applies to property taxes due and payable in fiscal
8 years beginning on or after July 1, 2014.